IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20744 of 2004

Between:

N.China Saidulu, S/o Ramalingaiah,
Suryapet Bus Depot, Nalgonda District

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Suryapet Bus Depot,
Nalgonda District
2 The Regional Manager, APSRTC, Nalgonda Region at Nalgonda

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ declaring that the action of the respondent No.1 in postponing annual increment for a period of one year which shall have effect on postponing future increments without conducting regular enquiry as bad, arbitrary, illegal, unjust and unreasonable and against the judgments of this Hon'ble Court and apex court and consequently set aside the final order No.02/104(185)/88-srpt dated 31-10-1988 and consequential order of R2 dated 26-3-2003.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court at the stage of admission made the following:

HONOURABLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.20744 OF 2004

ORDER:

The petitioner is working as a Conductor in the respondent-Corporation. He was issued a charge memo on 10-09-1988 and after receiving the explanation of the petitioner, the final orders were passed on 31-10-1988 postponing the annual increments of the petitioner for a period of one year. Against the said final order an appeal was preferred and the same was dismissed and against the said dismissal order the petitioner preferred a revision before the second respondent and the same was also dismissed. The petitioner questioned the order on the ground that postponing the annual increment without conducting a regular enquiry in the department itself is bad and contrary to the Rules and Regulations.

2. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 11 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in **Kulwant Singh Gill (**1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of two increments without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations.

Dr. G.YETHIRAJULU, J

10th November, 2004

SKM

TO

1 The Depot Manager, APSRTC, Suryapet Bus Depot,
Nalgonda District
2 The Regional Manager, APSRTC, Nalgonda Region at Nalgonda

3 Two C.D. Copies.